



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

**NOTICE OF ALLOWANCE AND ISSUE FEE DUE**

11/22/0221

U.S. PATENT DEPARTMENT ROOM  
CENEN, INC  
AMGEN CENTER, M/S 10-1-B  
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REDWOOD CITY CA 94063-1409

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
05/974,196	11/18/97	020	WUITCH, J	1639 02/21/01
First Named Applicant	COYLE	35 USC 154(b) term ext. =		0 Days.

TITLE OF INVENTION CYCLOPROTEGENTIN

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1	5-37805	514-044,900	032 UTILITY	NO	\$1240.00	05/21/01

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

**I. Review the SMALL ENTITY status shown above.**

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

**II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.**

**III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.**

***IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.***

**PATENT AND TRADEMARK OFFICE COPY**

**Notice of Allowability**

Application No.

08/974,186

Examiner

Joseph Weitach

Applicant(s)

BOYLE ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12-13-00 and 01-12-01.
2. ☒ The allowed claim(s) is/are 49, and 51-69.
3. ☐ The drawings filed on \_\_\_\_\_ are acceptable as formal drawings.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION.** This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☒ Applicant MUST submit NEW FORMAL DRAWINGS
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review( PTO-948) attached
    - 1) ☐ hereto or 2) ☒ to Paper No. 4.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>23</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input type="checkbox"/> Examiner's Amendment/Comment                                |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance    |
|  | 9 <input type="checkbox"/> Other   |

Application/Control Number: 08/974,186

Page 2

Art Unit: 1632

### **Reasons for allowance**

Applicants after final amendments filed December 13, 2000 (paper number 18) and January 12, 2001 (paper number 22) have been received and entered. Claim 50 has been canceled. Claims 49, 51-54 have been amended. Claims 55-69 have been added. Claims 49 and 51-69 are pending.

The declaration of Dr. Jackie Z. Sheng details experiments using adenovirus to deliver a polynucleotide encoding osteoprogenin to an animal, and the results demonstrated that the administered polynucleotide resulted in increased bone density similar to that seen in the transgenic mice expressing osteoprogenin. Further, the declaration and the specification teach that amino acids 22-180 are the essential portion of the encoded polypeptide, and that deletions of amino acids 1-22 and 180-401 still results in a functional osteoprogenin polypeptide. Applicants arguments, additional data provided in the declaration and supporting references have been found persuasive and overcomes the basis of the 112 first paragraph rejection. Amendments to claims have been made for consistency and clarity of the claimed invention. New claims have been added to more thoroughly and completely define the patentable subject matter present in the specification and encompassed within the elected group.


Art Unit: 1632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach, whose telephone number is (703) 305-3732. The examiner can normally be reached on Monday through Friday from 8:00 to 4:30 (Eastern time).

If attempts to reach the examinee by telephone are unsuccessful, the examiner's supervisor, Karen M. Hauda, can be reached on (703) 305-6608. The fax number for group 1600 is (703)308-4724.

An inquiry of a general nature or relating to the status of the application should be directed to Kay Pickney whose telephone number is (703) 305-3553.

Joseph T. Woitach

  
KAREN M. HAUDA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600